

REMARKS

Claims 1-39 are cancelled without prejudice, and new claims 40-50 are added. Upon entry of this amendment claims 40-50 will be pending.

For the reasons given below, it is submitted that the new claims clearly distinguish patentably over the prior art cited in the Office action of September 22, 2006, including Perzon et al. (US 6,141,984), Topper et al. (US 6,547,346) and Rhoads (US DES. 188,719).

Claim 40

Claim 40 specifies applicant's invention as comprising among, other things, a product server having a front customer side, a rear employee side, and a breath guard attached to the product server generally near the front customer side of the product server for pivotal movement between a lowered substantially horizontal position for covering food products held by the product server and a raised position in which the breath guard is configured to provide a barrier to contamination of the food products by customers on the customer side of the server while allowing access to the food products from the employee side of the breath guard. The breath guard is sufficiently transparent to allow viewing of the food products held in the food product server. The product server also includes a first extensible and retractable power assist device biased toward a position for applying a lifting force to the breath guard to assist in moving it toward its raised position, and a second extensible and retractable power assist device not biased toward a position but operable to resist movement of the breath guard from its raised position to its lowered position thereby providing controlled downward movement of the breath guard.

Perzon, Topper et al. and Rhoads fail to show or suggest applicant's food product server as defined by claim 40. In contrast, Perzon discloses a freezer having covers each of which is kept in its open and closed positions by a spring element 7 (col. 2, lines 13-22). Topper et al. disclose a refrigerated cabinet having two sets of paired gas springs 62, 64 for holding a service door 40 against a framework 42 (col. 5, lines 14-19) and for assisting in lifting the service door and framework to the position shown in Figs. 3 and 8 (col. 6, lines 3-6). The Rhoads patent is a design patent directed toward a portable cafeteria counter unit. The unit has no apparent power assist devices. Thus, the cited prior art fails to teach applicant's claimed food product server having a breath guard and two different extensible and retractable power assist devices, the first of which is biased toward a position for applying a lifting force to the breath guard to assist in

moving it toward its raised position, and the second of which is not biased toward a position but which is operable to resist movement of the breath guard from its raised position to its lowered position. Applicant's power assist design provides improved control over the movement of the breath guard as it is raised and lowered, and this design is neither shown nor suggested by the prior art. Accordingly, claim 40 is submitted to be allowable.

Claims 41-50

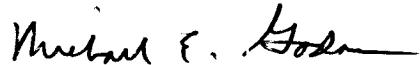
Claims 41-50 depend (either directly or indirectly) from claim 40 and are submitted to be allowable for the same reasons as claim 40 and because of the additional features specified in the claims not shown or suggested by the prior art.

CONCLUSION

Please charge any fees for additional claims and any other charges to 19-1345. Also please credit any overpayment to Deposit Account No. 19-1345.

In view of the foregoing, favorable consideration and allowance of this application is requested.

Respectfully submitted,



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